

bc: Mr. Gordon P. Ad
Mr. Robert H. Gustafson
Mr. Verne Walton
Mr. William Grommet
DAS File



(916) 323-7715

April 3, 1984

Mr.

Dear Mr. :

This is in response to your February 20, 1984, letter to Mr. and in furtherance of our subsequent telephone conversation concerning O

Center, a nonprofit corporation which is presently receiving the welfare exemption from property taxation, and the availability of the exemption were it to transfer electric power from its generator to P

Company pursuant to a Power Purchase Agreement For As-Delivered Capacity And Energy.

Per your letter, in part:

Recently installed at O is a wind-driven generator that produces somewhat less than half the amount of electricity needed on the property. Because the generator's output depends on wind conditions, its output varies from time to time. Sometimes the generator produces more electric power than is being used; during these periods of excess production, to avoid wasting the excess electricity, O would like to sell the excess power to P (at a wholesale rate), and then buy it back again (at a retail rate) at times when the generator is producing less power than is needed.

EX CH-1

The following figures are projections showing how the proposed arrangements might affect O. in a typical year:

(a) Total electric power needed, from whatever source, in the course of one year: 72,000 kwh.

(b) Cost of the electric power listed under (a), if all of it were obtained from P, and none of it were obtained from the generator: \$5400.00.

(c) Electric Power to be produced in one year by the generator: 30,000 kwh.

(d) Amount of O. P. electric bill for the year, if all of the power from the generator (listed under (c)) could be used as soon as produced, without being stored for later usage: \$3150.00.

(e) Excess power--i.e., power produced by the generator in excess of concurrent needs--to be sold to P for repurchase at a later time: 25,000 kwh.

(f) Wholesale value of excess power to be sold to P ; \$1450.00.

(g) Amount of O. P. electric bill for the year, after the wholesale value of excess power is offset: \$3575.00.

(h) Cost to O. of storing excess power from the generator by transferring it to P. distribution system (this is the amount shown in item (g), minus the amount shown in item (d)): \$425.00.

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The difference between the wholesale value and the retail value of the excess power produced by the wind generator (the figure shown in (h), above) can rightly be regarded as in effect, a charge paid by O for the service of storing the excess power.

As you know, to be eligible for the welfare exemption, an organization's property must be actually used for an exempt activity or activities, or its use must be incidental to and reasonably necessary for an exempt activity or activities (Section 214(3)), its property must not be used so as to benefit anyone through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession (Section 214(4)), and its property must not be used for fraternal, lodge, or social club purposes (Section 214(5)).

In this regard, we are of the opinion that O use of its generator for production of power for its own use is incidental to and reasonably necessary for its exempt activities and that its execution of the Power Purchase Agreement, whereby O can store and later use the excess power the generator has produced, would not be violative of the provisions of Section 214(3)-(5).

The welfare exemption requires an annual filing by the claimant with annual review by this Board and the County Assessor. Until such time as the claim for exemption and all supporting documents are filed and reviewed by the Board's staff, we cannot make a final determination. Assuming that all the requirements for the exemption are met, however, we believe that O property including its generator will continue to be eligible for the exemption.

Finally, since the Assessor may deny the claim of an applicant the Board finds eligible for the welfare exemption (Revenue and Taxation Code Section 254.5), you may wish to obtain the opinion of the County Assessor also in this regard.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:jlh

cc: Mr. Ernest L. Comalli
Mr. William Minor